

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
COLORADO RIVER BASIN REGION**

**ADMINISTRATIVE CIVIL LIABILITY ORDER NO. R7-2007-0004
MANDATORY MINIMUM PENALTY
IN THE MATTER OF
CITY OF WESTMORLAND, OWNER/OPERATOR
MUNICIPAL WASTEWATER TREATMENT PLANT
IMPERIAL COUNTY**

This order to assess Administrative Civil Liability (ACL) pursuant to California Water Code (CWC) Section 13385 is issued to the City of Westmorland (hereinafter Discharger), based on a finding of violations of NPDES Waste Discharge Requirements (WDRS) Board Order No. R7-2002-0004 (NPDES Permit No. CA0105007).

The Colorado River Basin Regional Water Quality Control Board (Regional Board) finds the following:

1. The Discharger owns and operates a sewage collection and treatment system that provides services to the City of Westmorland.
2. The Discharger's wastewater treatment plant (WWTP) is a publicly owned treatment works (POTW) and discharges its effluent to Trifolium Drain No. 6 that flows to the New River, which is a tributary to the Salton Sea. The Trifolium Drain No. 6, New River, and Salton Sea are waters of the United States.
3. CWC Section 13385(i) requires the Regional Board to assess a mandatory minimum penalty (MMP) of three thousand dollars (\$3,000) for each violation, not counting the first three violations, if the discharger does any of the following four or more times in any period of six consecutive months:
 - a. Violates a WDR effluent limitation.
 - b. Fails to file a report pursuant to Section 13260.
 - c. Files an incomplete report pursuant to Section 13260.
 - d. Violates a toxicity effluent limitation contained in the applicable WDRs where the WDRs do not contain pollutant-specific effluent limitations for toxic pollutants.
4. CWC Section 13385(i)(2) states:

"For the purposes of this section [13385] a 'period of six consecutive months' means the period commencing on the date that one of the violations described in this subdivision occurs and ending 180 days after that date."

5. CWC Section 13385(k) states:

"In lieu of assessing all or a portion of the mandatory minimum penalties pursuant to subdivisions (h) and (i) against a POTW serving a small community, as defined by subdivision (b) of Section 79084, the state board or the regional board may elect to require the POTW to spend an equivalent amount towards the completion of a compliance project proposed by the POTW, if the state or regional board finds all of the following:

- (1) The compliance project is designed to correct the violations within five years.
- (2) The compliance project is in accordance with the enforcement policy of the state board.

- (3) The POTW has demonstrated that it has sufficient funding to complete the compliance project.”
6. On February 19, 2002, the State Water Resources Control Board adopted Resolution No. 2002-0040 amending the Water Quality Enforcement Policy (Policy). The Policy was approved by the Office of Administrative Law and became effective on July 30, 2002. In accordance with Section X of the Policy, among other requirements, Compliance Projects (CPs) proposed by the POTW must be designed to correct the violations in five years and also comply with the general conditions specified for CPs in the Policy.
 7. On January 16, 2002, the Regional Board adopted WDR Order No. R7-2002-0004 (NPDES Permit No. CA0105007) for the Discharger’s WWTP.
 8. WDR Board Order No. R7-2002-0004 includes the following effluent discharge limitations in section A.5:

“Beginning October 1, 2002, effluent discharged to Trifolium Drain No. 6 shall not have Escherichia Coli (E. coli) concentration in excess of a log mean of Most Probable Number (MPN) of 126 MPN per 100 milliliters (based on a minimum of no less than five (5) samples for any 30-day period) nor shall any sample during any 30-day period exceed 400 MPN per 100 milliliters.”
 9. Monitoring reports submitted by the Discharger show that the wastewater discharged from the City of Westmorland WWTP was in chronic violation of its WDR effluent limitations cited in Finding No. 8 above.
 10. A summary of each violation of Board Order No. R7-2002-0004 is contained in Attachment “A,” which is incorporated in and made a part of this ACL Order No. R7-2007-0004 by reference.
 11. The total amount of the MMP for the violations cited in Attachment “A” is \$6,000.
 12. On October 27, 2006, the Regional Board Assistant Executive Officer issued ACL Complaint No. R7-2006-0080 proposing that the Discharger pay six thousand dollars (\$6,000) in ACL (MMP) for the violations.
 13. On November 21, 2006, the Discharger proposed the implementation of a CP described in Attachment “B” which is made a part of this Board Order by reference. Regional Board staff approved this CP as proposed. The ACL Complaint was rescinded on December 19, 2006.
 14. The Regional Board has notified the Discharger and the general public of its intent to hold a hearing on this matter within 90 days from the date the Complaint was issued unless the Discharger waives its right to a hearing under CWC Section 13323(b). The Discharger waived its right to a hearing on this matter as set forth in Attachment “B”.
 15. The Regional Board heard and considered all comments pertaining to this matter in a public meeting.
 16. Issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) in accordance with Section 15321(a)(2), Title 14, California Code of Regulations.

IT IS HEREBY ORDERED, pursuant to CWC Section 13385, that the Discharger is assessed six thousand dollars (\$6,000) in ACL (MMP) for the violations set forth in Attachment "A". In lieu of paying an ACL in the amount of six thousand dollars (\$6,000), the Discharger shall implement the proposed CP described in Attachment "B" in accordance with the following:

1. The Discharger shall comply with the State Board Enforcement Policy relating to implementation of CPs.
2. The CP shall be implemented in accordance with the time schedule stipulated in Attachment "C", appended to and made a part of this Board Order by reference. The Regional Board Executive Officer may modify the stipulated completion date and approve an alternative completion date for each phase of the CP if he determines that a delay is necessary for a timely return of the Discharger to full and sustained compliance with its WDR, and is beyond the reasonable control of the Discharger. Under no circumstances may the completion date extend beyond 5 years from the date of this Order.
3. If the Discharger completes a stipulated phase of the CP to the satisfaction of the Executive Officer by the approved date, the corresponding portion of the ACL indicated in Attachment "B" shall be permanently suspended. Similarly, if the Discharger fails to complete any stipulated phase of the CP to the satisfaction of the Executive Officer by the approved date, and the Executive Officer has not approved an extension in the completion date, the corresponding portion of the ACL shall become due and payable by the Discharger within 30 days of being so informed in writing.
4. Previously suspended amounts do not relieve the discharger of the independent obligation to take necessary actions to achieve compliance.
5. Completion of each stipulated phase and the whole CP shall be certified in writing by the Executive Officer. No portion of the ACL shall be suspended without a written certification issued by the Executive Officer.
6. The Discharger shall implement Monitoring and Reporting Program No. R7-2007-0004 and revisions thereto.
7. The Discharger shall submit all unspent ACL amounts, made payable to the "State Water Pollution Cleanup and Abatement Account," to the following address:

California Regional Water Quality Control Board
Colorado River Basin Region
Attn: Hilda Vasquez
73-720 Fred Waring Drive, Suite 100
Palm Desert, CA 92260

I, Robert Perdue, Executive Officer, do hereby certify the foregoing is a full, true and correct copy of an Order adopted by the California Regional Water Quality Control Board, Colorado River Basin Region, on March 21, 2007.


ROBERT PERDUE, Executive Officer

ATTACHMENT "A"

Summary of Violations of Board Order No. R7-2002-0004 and Mandatory Minimum Penalties

Assessed Violation¹ No.	Date Occurred	Description of Violation	Amount Assessed Dollars (\$)
298496	07/25/2005	Exceeded daily maximum limit of 400 MPN/100mL for E. coli Reported = 900 MPN/100mL	0 ²
298497	07/31/2005	Exceeded monthly average maximum limit of 126 MPN/100mL for E. coli Reported = 207 MPN/100mL	0
298498	08/03/2005	Exceeded daily maximum limit of 400 MPN/100mL for E. coli Reported = 1,600 MPN/100 mL	0
298499	08/24/2005	Exceeded daily maximum limit of 400 MPN/100mL for E. coli Reported = 1,600 MPN/100 mL	\$3,000
407641	02/22/2006	Exceeded daily maximum limit of 400 MPN/100mL for E. coli Reported = 500 MPN/100 mL	\$3,000

Total: \$6,000

¹ California Integrated Water Quality System (CIWQS)

² This is a supporting violation

ATTACHMENT "B"



City of Westmorland

355 South Center Street • Post Office Box 699
Westmorland, California 92281
Tel. (760) 344-3411 • Fax (760) 344-5307

November 21, 2006

Jose L. Angel, Assistant Executive Officer
California Regional Water Quality Control Board
Colorado River Basin Region
73-720 Fred Waring Drive, Suite 100
Palm Desert, CA 92260

Re: ACLC No. R7-2006-0080

Dear Mr. Angel:

The City received your Certified Mail 7006 0810 0003 6864 6003 with notification of Administrative Civil Liability Complaint No. R7-2006-0080 being issued by the RWQCB in the amount of \$6,000.

The City wishes to exercise the option of performing a compliance project as provided in the California Water Code Section 13385(k) as listed in item 5. of page 2 of the documentation enclosed with your letter.

The proposed compliance project consists of renovation of a "water champ" at a cost of \$4,800 or more and repair of a non-functioning valve in the discharge line from the septage receiving station at an approximate cost of \$2,500. The total of the two items will exceed the \$6,000 penalty amount of the ACLC.

The "water champ" is a device that injects, disperses, and mixes chlorine into the effluent as it flows into the Chlorine Contact Basin. The permit exceedances were related to a leaking hose connected to the water champ. The proposed compliance project will correct those malfunctions. Repair of the septage discharge control valve will provide a modulated flow of septage into the treatment process which will also help provide a more uniform influent for treatment.

Per your letter, a proposed Compliance Project must be completed within five years. The proposed Compliance Project would be scheduled to be completed in eighteen months (a year and a half).

Please advise the City if the proposed Compliance Project and timeline is acceptable to the Board.

Sincerely,

Handwritten signature of Joel Hamby in cursive script.

Joel Hamby, Project Manager

Cc Council
City Attorney
Chief WWTP Operator

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REGION 7

"Gateway City to Imperial Valley"

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
COLORADO RIVER BASIN REGION (R-7)
COMPLIANCE PROJECT INFORMATION SHEET**

The following information is provided for the Compliance project described below.

ACL No.: R-7-2006-0080 ACL Amount: \$ 6,000

Name of Discharger Under Permit City of Westmorland

Contact Person: Joel Hamby or Lucas Agatep

Phone (760) 344-3411 E-Mail joelhamby@adelphia.net

Name of Project: Repair of Water Champ and Septage Valve

Project Description: (If necessary, attach additional sheets for project description)
The chlorine injection/mixer device (water champ) will be renovated and put back in service.
The flow rate control valve on the septage receiving station will be restored function properly.

GENERAL CONDITIONS FOR COMPLIANCE PROJECT (Please answer the following questions by circling your response)

1. Is the compliance project designed to bring the permit back into compliance in a timely manner and/or prevent future noncompliance. YES NO
2. Is the compliance project otherwise obligated to perform independent of the Administrative Civil Liability itself. YES NO
3. The compliance project information sheet has clearly identified project goals, costs, milestones and completion dates. YES NO
4. If the project is longer than one year, annual reporting requirements will be provided to the Regional Board. YES NO

If project is less than one year please provide the estimated project start date and completion date:

Estimated Project Start Date: _____ Estimated Project Completion Date: _____

If project is greater than one year please provide the following:

PROJECT GOALS, COSTS, MILESTONES AND COMPLETION DATES

If project is longer than one year please provide the information in Item No. 3 of the General Conditions for Compliance Project:

Items to be identified include the following

1. Water Champ renovation Start Date: 1/1/07 End Date: 10/1/07
2. Milestone report due at end of year one Date Due: 1/1/08 Cost: \$4,800
3. Septage Valve restoration Start Date: 7/1/07 End Date: 6/1/08
4. Milestone report due at end of project Date Due: 7/1/08 Cost: \$2,500

Total Estimated Project Cost (including funds from other sources): \$ 7,300

SIGNATURE: Joel Hamby **Date:** December 8, 2006

Name: Joel Hamby **Position:** Project Manager

(Upon completion of the project, please submit a final report of the project, which includes a certification that this project is complete; provide copies of receipts, invoices, etc. to substantiate the expenses that the proposed administrative penalties have been spent.)

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REGION 7

le: WJF 7A13 0112 012 - City of Westmorland; Board Order: 07-2006-0004

ATTACHMENT "C"

STIPULATED TIME SCHEDULE FOR THE IMPLEMENTATION OF COMPLIANCE PROJECT (CP)

Phase No	Description of CP Phase	Completion Date	Estimated Cost	Corresponding Portion of ACL That May Be Suspended
1	Renovate the chlorine injection/mixer device (water champ) and put back in service.	January 15, 2008	4,800	3,945
2	Restore the flow rate control valve on the septage receiving station.	July 15, 2008	2,500	2,055
Total:			\$7,300	\$6,000